

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re:)	
)	
EXIDE TECHNOLOGIES, et al.)	Bk. No. 02-11125 (KJC)
)	
)	
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ENERSYS DELAWARE, INC.,)	Civ. No. 06-302 (SLR)
)	
Appellant,)	
)	AP No. 06-33
v.)	
)	
EXIDE TECHNOLOGIES,)	
)	
Appellee.)	
)	

**JOINT MOTION OF REORGANIZED EXIDE TECHNOLOGIES AND ITS DEBTOR
AFFILIATES AND ENERSYS DELAWARE, INC. F/K/A ENERSYS, INC. FOR
AUTHORITY TO FILE THEIR APPELLATE BRIEFS UNDER SEAL**

Reorganized Exide Technologies and its debtor affiliates (collectively, “Exide” or “Appellee”) and EnerSys Delaware, Inc. f/k/a EnerSys, Inc. (“EnerSys” or “Appellant”, together with the Appellee, the “Parties”) hereby file this motion (the “Motion”) seeking the entry of a order to protect the confidentiality of certain proprietary information and documents subject to protective orders entered by the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) in this action. In support of this Motion, the Parties state as follows:

Jurisdiction

1. The Court has jurisdiction over this motion under 28 U.S.C. §§ 157 and 1334. Venue of these proceedings and this motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

Background

2. On April 15, 2002, the Appellee filed voluntary petitions for relief under chapter 11 of title 11 of the Bankruptcy Code in the Bankruptcy Court.

3. On March 14, 2003, the Appellee filed Notices of Rejection (the "Notices to Reject") seeking to reject certain executory agreements with the Appellant (the "Rejected Agreements"). On April 14, 2003, Appellant filed its objection to the Notices to Reject.

4. The Bankruptcy Court held a seven-day trial beginning on March 3, 2004 and concluding on March 31, 2004.

5. On April 3, 2006, this Court authorized the Appellee's rejection the Rejected Agreements, pursuant to the Order Granting Debtors' Motion to Reject (Bankr. Docket No. 5378, the "Rejection Order") and related opinion (Bankr. Docket No. 5377, the "Opinion").

6. On April 11, 2006, Appellant filed its Notice of Appeal from the Rejection Order (D.I. No. 1).

7. On September 5, 2006, EnerSys filed its opening brief (the "Opening Brief") in support of its appeal. Due to concerns about revealing confidential or proprietary information, the parties agreed that EnerSys would file a redacted version of its Opening Brief and Exide would move for a protective order. The parties also agreed that if the Court denied the

instant motion, EnerSys would be able to file an unredacted version of its Opening Brief without Exide arguing EnerSys violated any protective order entered by the Bankruptcy Court

Relief Requested

8. Because the briefs in this matter may contain confidential information, the Parties seek an Order authorizing the filing of their appellate briefs under seal¹.

9. The nature of the disputes between the parties necessarily implicates highly proprietary business information of both Exide and EnerSys, including, but not limited to, business plans and projections, strategic planning, branding strategy, historical and projected profit margins, customer information, and similar confidential material. The Bankruptcy Court recognized the unique harm that would result if certain proprietary business information was shared among the Parties and/or with competitors of the Parties. Accordingly, in order to facilitate the adjudication of the rejection issues without making public the Parties' proprietary information, the Bankruptcy Court entered the protective orders and authorized the filing of pleadings containing confidential information under seal.²

10. Both Exide and EnerSys would be harmed if their respective proprietary business information could be obtained by other competitors or interested parties. Permitting the Parties to file their briefs under seal in this appeal will preserve and protect the legitimate

¹ To the extent the Court grants the requested relief herein, EnerSys will be permitted to refile its Opening Brief in unredacted form under seal, and it will be deemed timely filed.

² The Bankruptcy Court on two separate occasions entered protective orders in this action -- *Stipulated Protective Order* (Bankr. Docket No. 1938; Dated June 12, 2003) and *Protective Order By and Between Debtors and EnerSys, Inc.* (Bankr. Docket No. 2544; Dated Oct. 6, 2003) (collectively, the "Protective Orders"). The parties agree that the Protective Orders remain in full force and effect.

financial interests of both Parties, while still giving this Court a full and fair opportunity to adjudicate the appeal.

Certification of Effort to Confer in Good Faith

11. The Parties have conferred in good faith in order to seek agreement on the relief requested in this Motion and form of order.

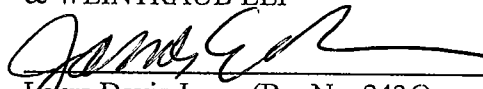
WHEREFORE, for the reasons set forth, the Parties respectfully request that this Court enter an order, the form of which is attached hereto, authorizing the Parties to file their appellate briefs under seal.

Dated: September 15, 2006

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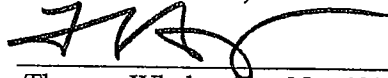


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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re:)	
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EXIDE TECHNOLOGIES, et al.)	Bk. No. 02-11125 (KJC)
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ENERSYS DELAWARE, INC.,)	Civ. No. 06-302 (SLR)
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Appellant,)	
)	AP No. 06-33
v.)	
)	
EXIDE TECHNOLOGIES,)	
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Appellee.)	
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**ORDER AUTHORIZING THE REORGANIZED EXIDE TECHNOLOGIES AND ITS
DEBTOR AFFILIATES AND ENERSYS DELAWARE, INC. F/K/A ENERSYS, INC. TO
FILE THEIR APPELLATE BRIEFS UNDER SEAL**

Upon consideration of the *Joint Motion of Reorganized Exide Technologies and its Debtor Affiliates and EnerSys Delaware, Inc. f/k/a EnerSys, Inc. for Authority to File Their Appellate Briefs under Seal* (the "Motion")¹; and after due deliberation and sufficient cause appearing therefore;

NOW, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The relief requested in the Motion is granted.

¹ All capitalized terms used herein but not otherwise defined shall have the meaning ascribed to such terms in the Motion.

2. The Parties are hereby authorized to file their appellate briefs under seal. EnerSys shall be permitted to refile its unredacted Opening Brief under seal and such filing shall be deemed timely.

3. Materials filed under seal pursuant to this Order shall remain under seal until further order of this Court.

Dated: _____

Honorable Sue L. Robinson
United States District Court, Chief Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
) Bk. No. 02-11125 (KJC)
EXIDE TECHNOLOGIES, et al.)
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ENERSYS DELAWARE, INC.,) Civ. No. 06-302 (SLR)
)
Appellant,)
) AP No. 06-33
v.)
)
EXIDE TECHNOLOGIES,)
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Appellee.)
)

CERTIFICATE OF SERVICE

I, James E. O'Neill, hereby certify that on the 15th day of September, 2006, I caused a copy of the following document(s) to be served on the individuals on the attached service list(s) in the manner indicated:

Joint Motion of Reorganized Exide Technologies and its Debtor Affiliates and EnerSys Delaware, Inc. f/k/a EnerSys, Inc. for Authority to File Their Appellate Briefs Under Seal

[Proposed] Order Authorizing the Reorganized Exide Technologies and its Debtor Affiliates and EnerSys Delaware, Inc. f/k/a EnerSys, Inc. to File Their Appellate Briefs Under Seal


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Exide Technologies – EnerSys Service List
Case No. 02-11125 (KJC)
Document No. 120280
07 – Hand Delivery
11 – First Class Mail

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